

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

KENNETH BURKE,

Plaintiff,

vs.

No. CV 18-00261 MV/SMV

DOÑA ANA COUNTY DETENTION CENTER,
ALL DOÑA ANA COUNTY SHERIFFS DEPARTMENT,
ENRIQUE VIGIL, MAYOR OF LAS CRUCES,
KEN MIYAGISHIMA, ALL MEMBERS OF CITY COUNSEL,
LAS CRUCES, NEW MEXICO, KASANDRA GANDARA,
GREG SMITH, GABRIEL VASQUEZ, JACK EAKMAN,
GILL SORG, YVONNE FLOREZ,

Defendants.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

THIS MATTER is before the Court *sua sponte* under Fed. R. Civ. P. 41(b) on the Handwritten 1983 Prisoners Civil Rights Violation Complaint filed by Plaintiff Kenneth Burke (Doc. 1). The Court will dismiss the Complaint without prejudice for failure to comply with a Court order and failure to prosecute.

Mailings to Plaintiff Burke at his address of record were returned as undelivered. (Doc. 25, 26, 27, 28). The Court then issued an Order to Show Cause on May 22, 2018, directing Burke to notify the Court of a new address, or otherwise show cause why the case should not be dismissed, within 21 days of entry of the Order. (Doc. 30). Additional mail, including the copy of the Court's Order to Show Cause mailed to Burke's address of record, was also returned as undelivered. (Doc. 31, 32). The Court's review of the Doña Ana County Detention Center records confirms that Burke is no longer in the custody of Doña Ana County. More than 21 days has

elapsed since entry of the Order to Show Cause and Burke has not provided the Court with a new address, responded to the Court's Order, or otherwise shown cause why the case should not be dismissed.

Pro se litigants are required to follow the federal rules of procedure and simple, nonburdensome local rules. *See Bradenburg v. Beaman*, 632 F.2d 120, 122 (10th Cir. 1980). The local rules require litigants, including prisoners, to keep the Court apprised of their proper mailing address and to maintain contact with the Court. D.N.M. LR-Civ. 83.6. Plaintiff Burke has failed to comply with D.N.M. LR-Civ. 83.6 and with the Court's May 22, 2018 Order to Show Cause.

Plaintiff Burke has failed to comply with the Court's order and failed to prosecute this action by not keeping the Court apprised of his current address. The Court may dismiss an action under Fed. R. Civ. P. 41(b) for failure to prosecute, to comply with the rules of civil procedure, or to comply with court orders. *See Olsen v. Mapes*, 333 F.3d 1199, 1204, n. 3 (10th Cir. 2003). Therefore, the Court will dismiss this civil proceeding pursuant to Rule 41(b) for failure to comply with the Court's Order and failure to prosecute this proceeding.

Also pending before the Court are the Motion for Order of Production (Doc. 7), Motion to Amend (Doc. 8), Motion for Production of Documents (Doc. 9), Motion for Produce of Documents (Doc. 10), Motion for Order of Production (Doc. 11), Motion for Production of Documents (Doc. 12), Motion for Order (Doc. 13), Motion to Amend Confidential Medical Records (Doc. 14), Motion to Amend (Doc. 18), Motion for Order to Join Robert Sanchez (Doc. 20), Motion for Order to Join Thomas Bowyer (Doc. 21), Motion for Order to Join Mia C. Campbell (Doc. 22), Motion to Join Manuel Delgado (Doc. 23), and Motion to Amend (Doc. 24). The Court denies all pending motions as moot in light of the dismissal of this proceeding. **IT IS THEREFORE ORDERED:**

(1) the Motion for Order of Production (Doc. 7), Motion to Amend (Doc. 8), Motion for Production of Documents (Doc. 9), Motion for Produce of Documents (Doc. 10), Motion for Order of Production (Doc. 11), Motion for Production of Documents (Doc. 12), Motion for Order (Doc. 13), Motion to Amend Confidential Medical Records (Doc. 14), Motion to Amend (Doc. 18), Motion for Order to Join Robert Sanchez (Doc. 20), Motion for Order to Join Thomas Bowyer (Doc. 21), Motion for Order to Join Mia C. Campbell (Doc. 22), Motion to Join Manuel Delgado (Doc. 23), and Motion to Amend (Doc. 24) are **DENIED** as moot; and

(2) the Handwritten 1983 Prisoners Civil Rights Violation Complaint filed by Plaintiff Kenneth Burke (Doc. 1) is **DISMISSED** without prejudice under Fed. R. Civ. P. 41(b) for failure to comply with the Court's order and failure to prosecute.



UNITED STATES DISTRICT JUDGE